



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Motion Signature

File Number: 20220166

Pension Plan Amendments (Pension Board)

Motion approving an ordinance amending Article X in the defined benefit pension plans to allow the police and fire chiefs to select a designee to serve on the board in an ex officio role, update the officers and duties section, and make other administrative updates and formatting changes as forwarded by the Pension Board.

Second Reading

Date April 13, 2022

A handwritten signature in cursive script, reading "R. Steve Tumlin, Jr.", written over a horizontal line.

R. Steve Tumlin, Jr., Mayor

A handwritten signature in cursive script, reading "Stephanie Guy", written over a horizontal line.

Stephanie Guy, City Clerk

LEGISTAR#: 20220166
ORDINANCE NO: 8262

AN ORDINANCE

Amending the defined benefit pension plans to allow the police and fire chiefs to select a designee to serve on the board in an ex officio role, update the officers and duties section, and make other administrative updates and formatting changes.

NOW THEREFORE, THE COUNCIL OF THE CITY OF MARIETTA HEREBY ORDAINS:

Section 1: That Article 4-12-4, Exhibit A to Chapter 4-12, Ordinance 4022, "Retirement Plan for the Employees of the City of Marietta, Georgia," Article X (Pension Board) be amended to read as follows:

**ARTICLE X
Pension Board**

Section 1. Creation.

There is hereby created in the City of Marietta a pension board which shall consist of such members elected and appointed and having such duties, functions, and powers as are hereinafter prescribed.

Section 2. Definitions.

- A. "Board" shall mean the pension board created by this article.
- B. "Police and fire employees" shall mean the sworn personnel of the police and fire departments.
- C. "General employees" shall mean personnel other than the sworn personnel of the police and fire departments.
- D. "Council" shall mean the governing authority of the City of Marietta which shall include the mayor and members of the council.
- E. In computing time required under this article, time shall be computed without exclusion of Sundays and holidays.
- F. When used in this article, the male gender shall include the female and neuter genders.
- G. "Nomination" shall mean either the process to select potential individuals for appointment to the Board or a formal and non-binding recommendation to the Council for appointment.

Section 3. Functions and powers.

The pension board shall have the following duties, functions and powers:

- A. In dealing with those persons participating or eligible to participate in any pension, retirement or disability program, the Board shall:
 - 1. Handle distribution of all reports to participants.

2. Handle arbitration between the city and the participants in all matters regarding the plan.
3. Handle any notices of eligibility, benefits, available options, and any other notices required by this plan, contract or rules and regulations.
4. Decide all questions and disputes on the interpretation and eligibility of persons for payment under any pension, retirement, and disability ordinance of the City of Marietta.

B. In performance of its duties, the Board shall have the following powers:

1. Recommend to the Council the awarding of contract(s) for actuarial, and investment management and other administrative services as needed;
2. Adopt rules and regulations providing procedures for the granting of pension, retirement and disability benefits and to approve payments for such persons entitled to payment;
3. Adopt investment programs and procedures for funds held by any investment manager;
4. Adopt all documents issued by the Board;
5. Review and recommend changes in the pension, retirement and disability program;
6. When requested by the city manager, to advise the city manager on all pension, retirement, or disability payment matters; and
7. To do all other things necessary and proper to carry out the duties required of it as the pension board of the City of Marietta.

Section 4. Appeal and procedure.

Any person dissatisfied with any decision of the Board shall have the right to appeal the decision to the Council by delivering to the city manager a written notice within ten days of the decision complained of. The city manager shall cause the secretary of the Board, within ten days after such receipt, to provide to the clerk of the Council all documents relied upon by the Board in reaching its decision. The Council shall decide the appeal within 75 days of receipt of the appeal documents from the secretary of the Board. Should the Council fail to act within 75 days of the decision of the Board, the decision of the Board shall be affirmed. In ruling on any appeal from the Board, the decision of the Board shall be presumed correct and based upon sufficient facts to sustain it.

Section 5. Membership and operation.

A. Membership.

The Board shall consist of nine members appointed by the Council which may be selected from the following:

1. Post 1: City manager or his nominated designee, to be appointed by Council and reappointed with each successive Council. The Council shall consider, but not be bound by, nominations made by the City Manager.

2. Post 2: Council member.
3. Post 3: Council member.
4. Post 4: General employee representative.
5. Post 5: General employee representative.
6. Post 6: General employee representative.
7. Post 7: General employee representative.
8. Post 8: Police department representative.
9. Post 9: Fire department representative.

Subject to being appointed by the Council, the police chief and fire chief, or their respective designees, shall be ex officio members of the Board and shall only vote in the absence of the respective department representatives. Each chief or designee must be reappointed with each successive Council.

B. Terms. Member from Post 1 serves until the organization meeting of the following Council. Members from Posts 2 and 3 serve until the expiration of the current Committee appointment, which is through the next January Council meeting. Members from Posts 4 through 9 shall be nominated as hereinafter provided and shall begin service on January 1 for a term of three years unless serving the remainder of a term as hereinafter provided.

C. Selection of council, police department, fire department, and general employee representatives:

1. Council representatives. Two members of the Council shall serve on the Board. The two members representing Council shall be the Chairman of the Personnel/Insurance Committee and the Chairman of the Finance/Investments Committee as provided in Section 1-4-040 of City Code. If either of the chairmen is unable to serve or declines to serve for any reason, then the Vice Chairman of the applicable committee shall serve in their stead. If a vacancy still exists, then the Mayor with consent of Council shall appoint an alternate.

2. Police and fire department representatives.

a. One member of the Board shall be appointed by the Council as a representative of the police department. The senior officer in the rank of deputy police chief shall serve as the department's senior election officer, responsible for organizing and overseeing the nomination via election for the police department.

b. One member of the Board shall be appointed by the Council as a representative of the fire department. The senior officer in the rank of deputy fire chief shall serve as the department's senior election officer, responsible for organizing and overseeing the nomination via election for the fire department.

c. Nomination of police and fire department representatives. The senior election officer of each respective department shall advertise the upcoming election at least ten calendar days prior to the election, collect the names of all interested and eligible employees to be placed on the ballot, and hold the election in the month of November immediately

preceding the expiration of the terms of the police and fire representatives. The names of the employees shall be placed on a ballot with space provided for write-ins. The duration of the election period will not exceed ten business days, including periods of early voting. Ballots shall be distributed to all eligible employees in the respective departments of police and fire. When used, paper ballots shall be marked in secret and returned to the senior election officer the same day they are distributed to each employee. If electronic voting is used, the method must be certified by the director of information technology as maintaining anonymity and security. Each eligible employee will vote for one candidate and the candidate receiving a plurality of votes shall be nominated for appointment to the Board by the Council as the representative of their respective departments. In the case of only one interested and eligible employee, the chief of the department will submit the name of the nominee to the secretary of the Board as having run unopposed and shall be nominated for appointment to the Board by the Council as the representative of the department. If for any reason the duly nominated representative of the police or fire departments cannot fulfill his or her office, the city manager, having received a recommendation from the chief of the department, shall nominate a replacement for the duration of the vacated membership. The Council shall consider, but not be bound by, nominations made as a result of elections or the nominating process.

3. General employee representatives. Four members of the Board shall be appointed by the Council as representatives of the general employees. The director of human resources and risk management shall serve as the senior election officer, responsible for organizing and overseeing the nomination via election for the general employees.

4. Nomination of general employee representatives. The senior election officer shall advertise the upcoming election at least ten calendar days prior to the election, collect the names of all interested and eligible employees to be placed on the ballot, and hold the election in the month of November immediately preceding the end of the current member's term. The names of such employees shall be placed on a ballot with space provided for write-ins. The duration of the election period will not exceed ten business days, including periods of early voting. Ballots shall be distributed to all eligible general employees. When used, paper ballots shall be marked in secret and returned to the senior election officer the same day they are distributed to each employee. If electronic voting is used, the method must be certified by the director of information technology as maintaining anonymity and security. Each employee will vote for as many candidates as there are representative seats of the general employees set to expire at the end of the year. The candidate(s) receiving the highest plurality of votes for such seats shall be nominated for appointment to the Board by the Council as the representative(s) of the general employees. In the case of only one interested and eligible employee per post, the senior election officer will submit the name(s) of the nominee(s) to the secretary of the Board as having run unopposed and shall be nominated for appointment to the Board by the Council as the representative(s) of the general employees. If for any reason a duly nominated representative of the general employees cannot fulfill his or her office, the city manager, in consultation with the senior election officer, shall nominate a replacement for the duration of the vacated membership. The Council shall consider, but not be bound by, nominations made as a result of elections or the nominating process.

5. Notwithstanding anything contained herein, no person shall serve as a member of the Board without having been appointed by the Council.

D. Officers and Duties.

1. The Board shall select a chairperson through a majority vote for a one-year term. The chairperson shall preside at meetings of the board, cast a vote on any issue, call meetings as may be necessary, and do all things necessary to carry on the orderly affairs of the board.

2. After a majority vote, the Board shall designate, in writing, a secretary or other representative who shall have full authority to represent the Board in all communications with any provider and the city's employees, including elected and appointed members of the governing authority. The secretary shall keep accurate minutes of all meetings of the Board, recording those voting for and against any issue. Minutes shall be distributed to each member of the Board, to the Council, and shall be posted either online or in a prominent place(s) within the City Government Complex. The position of secretary is an ex officio, non-voting position. Accordingly, this position does not need to be appointed by Council. Unless the Board acts otherwise, the director of human resources and risk management will serve as the secretary.

3. After a majority vote, the board shall designate, in writing, a treasurer or other representative who shall be responsible for releasing funds to settle all debts, payments, and obligations of the Board. The treasurer may also serve as a signature authority on any bank account maintained by the Board. The position of treasurer is an ex officio, non-voting position. Accordingly, this position does not need to be appointed by Council. Unless the board acts otherwise, the director of finance will serve as the treasurer.

4. The Board may select such other officers as it deems necessary through a majority vote.

5. The City Manager or his designee, or alternatively, those other members the City Manager designates in writing (not to exceed three members) to approve applications, shall have authority to approve pension, retirement, and disability payments until the next regular meeting of the Board.

E. Legal assistance. The city attorney or other attorney appointed by the governing authority shall furnish legal advice to the Board on any issue before it upon which legal advice is sought.

F. Meetings. The Board shall meet at least quarterly. Five members of the board (including the chairman) shall constitute a quorum.

G. Rules of procedure. The Board shall have the authority to promulgate rules and regulations for its internal operation, as well as the approval of payments within its jurisdiction.

H. Education. As mandated by Georgia law, each Council-appointed Board member (including ex officio), or officer or staff member as designated by the Board, shall complete appropriate education applicable to his or her fiduciary duties and obligations under the plan.

1. Applicable education shall include education and training in the following areas:

a. Laws applicable to public retirement systems, which may include federal and state laws applicable to specific public retirement systems, laws applicable to public retirement system trustees, the applicable common law duties of trustees listed in Title 53 of the Georgia Code, and laws related to open meetings and open records;

b. Roles, duties, and responsibilities of public retirement system trustees;

c. Ethics and conflicts of interest;

- d.. Governance, administration, and funding of public retirement systems;
- e. Investments; investment management, portfolios, and strategies; and measurements of performance; and
- f. Audit and actuarial principles and methods related to public retirement systems.

2. Applicable education may include:

- a. Seminars, conferences, or schools sponsored by educational institutions or professional organizations;
- b. Online continuing education coursework;
- c. Continuing education received at any public retirement system meeting; or
- d. Any other continuing education approved by the Board.

3. The secretary shall maintain a record of each member's applicable trustee education and provide a report to the Board and Council on an annual basis. Each member or designated officer or staff member first appointed or elected on or after July 1, 2019, shall complete a minimum of eight hours of education designed to orient new public retirement system trustees in the areas described in this Section within one year of becoming a new trustee. If a member from Posts 1 through 9 or one of the chiefs of public safety or their respective designees fails to complete such requirement within 14 months, such member shall be deemed removed from his or her position as trustee by operation of State law (currently O.C.G.A. 47-1-17 and as later amended) and shall be removed without any further action, and the Council shall appoint a new member in accordance with this Section. Each appointed member or designated officer or staff member who was appointed or elected prior to July 1, 2019, or who has served one or more years as a public retirement system trustee shall complete a minimum of 12 hours of continuing education every two years in the areas described in this Section. If a member from Posts 1 through 9 or one of the chiefs of public safety or their respective designees fails to complete such requirement within 26 months, such member shall be deemed removed from his or her position as trustee by operation of State law (currently O.C.G.A. 47-1-17 and as later amended) and shall be removed without any further action, and the Council shall appoint a new member in accordance with this Section.

Section 2: That Article 4-12-6, Exhibit B to Chapter 4-12, Ordinance 4532, "Consolidated Retirement Plan for the Employees of the City of Marietta, Georgia," Article X (Pension Board) be amended to read as follows:

ARTICLE X

Pension Board

Section 1. Creation.

There is hereby created in the City of Marietta a pension board which shall consist of such members elected and appointed and having such duties, functions, and powers as are hereinafter prescribed.

Section 2. Definitions.

- A. "Board" shall mean the pension board created by this article.
- B. "Police and fire employees" shall mean the sworn personnel of the police and fire departments.
- C. "General employees" shall mean personnel other than the sworn personnel of the police and fire departments.
- D. "Council" shall mean the governing authority of the City of Marietta which shall include the mayor and members of the council.
- E. In computing time required under this article, time shall be computed without exclusion of Sundays and holidays.
- F. When used in this article, the male gender shall include the female and neuter genders.
- G. "Nomination" shall mean either the process to select potential individuals for appointment to the Board or a formal and non-binding recommendation to the Council for appointment.

Section 3. Functions and powers.

The pension board shall have the following duties, functions and powers:

- A. In dealing with those persons participating or eligible to participate in any pension, retirement or disability program, the Board shall:
 - 1. Handle distribution of all reports to participants.
 - 2. Handle arbitration between the city and the participants in all matters regarding the plan.
 - 3. Handle any notices of eligibility, benefits, available options, and any other notices required by this plan, contract or rules and regulations.
 - 4. Decide all questions and disputes on the interpretation and eligibility of persons for payment under any pension, retirement, and disability ordinance of the City of Marietta.
- B. In performance of its duties, the Board shall have the following powers:
 - 1. Recommend to the Council the awarding of contract(s) for actuarial, and investment management and other administrative services as needed;
 - 2. Adopt rules and regulations providing procedures for the granting of pension, retirement and disability benefits and to approve payments for such persons entitled to payment;
 - 3. Adopt investment programs and procedures for funds held by any investment manager;
 - 4. Adopt all documents issued by the Board;
 - 5. Review and recommend changes in the pension, retirement and disability program;
 - 6. When requested by the city manager, to advise the city manager on all pension, retirement, or disability payment matters; and

7. To do all other things necessary and proper to carry out the duties required of it as the pension board of the City of Marietta.

Section 4. Appeal and procedure.

Any person dissatisfied with any decision of the Board shall have the right to appeal the decision to the Council by delivering to the city manager a written notice within ten days of the decision complained of. The city manager shall cause the secretary of the Board, within ten days after such receipt, to provide to the clerk of the Council all documents relied upon by the Board in reaching its decision. The Council shall decide the appeal within 75 days of receipt of the appeal documents from the secretary of the Board. Should the Council fail to act within 75 days of the decision of the Board, the decision of the Board shall be affirmed. In ruling on any appeal from the Board, the decision of the Board shall be presumed correct and based upon sufficient facts to sustain it.

Section 5. Membership and operation.

A. Membership.

The Board shall consist of nine members appointed by the Council which may be selected from the following:

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5. Post 5: General employee representative.
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8. Post 8: Police department representative.
9. Post 9: Fire department representative.

Subject to being appointed by the Council, the police chief and fire chief, or their respective designees, shall be ex officio members of the Board and shall only vote in the absence of the respective department representatives. Each chief or designee must be reappointed with each successive Council.

B. Terms. Member from Post 1 serves until the organization meeting of the following Council. Members from Posts 2 and 3 serve until the expiration of the term of the current Committee appointment, which is through the next January Council meeting. Members from Posts 4 through 9 shall be nominated as hereinafter provided and shall begin service on January 1 for a term of three years unless serving the remainder of a term as hereinafter provided.

C. Selection of council, police department, fire department, and general employee representatives:

1. Council representatives. Two members of the Council shall serve on the Board. The two members representing Council shall be the Chairman of the Personnel/Insurance Committee and the Chairman of the Finance/Investments Committee as provided in Section 1-4-040 of City Code. If either of the chairmen is unable to serve or declines to serve for any reason, then the Vice Chairman of the applicable committee shall serve in their stead. If a vacancy still exists, then the Mayor with consent of Council shall appoint an alternate.

2. Police and fire department representatives.

a. One member of the Board shall be appointed by the Council as a representative of the police department. The senior officer in the rank of deputy police chief shall serve as the department's senior election officer, responsible for organizing and overseeing the nomination via election for the police department.

b. One member of the Board shall be appointed by the Council as a representative of the fire department. The senior officer in the rank of deputy fire chief shall serve as the department's senior election officer, responsible for organizing and overseeing the nomination via election for the fire department.

c. Nomination of police and fire department representatives. The senior election officer of each respective department shall advertise the upcoming election at least ten calendar days prior to the election, collect the names of all interested and eligible employees to be placed on the ballot, and hold the election in the month of November immediately preceding the expiration of the terms of the police and fire representatives. The names of the employees shall be placed on a ballot with space provided for write-ins. The duration of the election period will not exceed ten business days, including periods of early voting. Ballots shall be distributed to all eligible employees in the respective departments of police and fire. When used, paper ballots shall be marked in secret and returned to the senior election officer the same day they are distributed to each employee. If electronic voting is used, the method must be certified by the director of information technology as maintaining anonymity and security. Each eligible employee will vote for one candidate and the candidate receiving a plurality of votes shall be nominated for appointment to the Board by the Council as the representative of their respective departments. In the case of only one interested and eligible employee, the chief of the department will submit the name of the nominee to the secretary of the Board as having run unopposed and shall be nominated for appointment to the Board by the Council as the representative of the department. If for any reason the duly nominated representative of the police or fire departments cannot fulfill his or her office, the city manager, having received a recommendation from the chief of the department, shall nominate a replacement for the duration of the vacated membership. The Council shall consider, but not be bound by, nominations made as a result of elections or the nominating process.

3. General employee representatives. Four members of the Board shall be appointed by the Council as representatives of the general employees. The director of human resources and risk management shall serve as the senior election officer, responsible for organizing and overseeing the nomination via election for the general employees.

4. Nomination of general employee representatives. The senior election officer shall advertise the upcoming election at least ten calendar days prior to the election, collect the names

of all interested and eligible employees to be placed on the ballot, and hold the election in the month of November immediately preceding the end of the current member's term. The names of such employees shall be placed on a ballot with space provided for write-ins. The duration of the election period will not exceed ten business days, including periods of early voting. Ballots shall be distributed to all eligible general employees. When used, paper ballots shall be marked in secret and returned to the senior election officer the same day they are distributed to each employee. If electronic voting is used, the method must be certified by the director of information technology as maintaining anonymity and security. Each employee will vote for as many candidates as there are representative seats of the general employees set to expire at the end of the year. The candidate(s) receiving the highest plurality of votes for such seats shall be nominated for appointment to the Board by the Council as the representative(s) of the general employees. In the case of only one interested and eligible employee per post, the senior election officer will submit the name(s) of the nominee(s) to the secretary of the Board as having run unopposed and shall be nominated for appointment to the Board by the Council as the representative(s) of the general employees. If for any reason a duly nominated representative of the general employees cannot fulfill his or her office, the city manager, in consultation with the senior election officer, shall nominate a replacement for the duration of the vacated membership. The Council shall consider, but not be bound by, nominations made as a result of elections or the nominating process.

5. Notwithstanding anything contained herein, no person shall serve as a member of the Board without having been appointed by the Council.

D. Officers and Duties.

1. The Board shall select a chairperson through a majority vote for a one-year term. The chairperson shall preside at meetings of the board, cast a vote on any issue, call meetings as may be necessary, and do all things necessary to carry on the orderly affairs of the board.

2. After a majority vote, the Board shall designate, in writing, a secretary or other representative who shall have full authority to represent the Board in all communications with any provider and the city's employees, including elected and appointed members of the governing authority. The secretary shall keep accurate minutes of all meetings of the Board, recording those voting for and against any issue. Minutes shall be distributed to each member of the Board, to the Council, and shall be posted either online or in a prominent place(s) within the City Government Complex. The position of secretary is an ex officio, non-voting position. Accordingly, this position does not need to be appointed by Council. Unless the Board acts otherwise, the director of human resources and risk management will serve as the secretary.

3. After a majority vote, the board shall designate, in writing, a treasurer or other representative who shall be responsible for releasing funds to settle all debts, payments, and obligations of the Board. The treasurer may also serve as a signature authority on any bank account maintained by the Board. The position of treasurer is an ex officio, non-voting position. Accordingly, this position does not need to be appointed by Council. Unless the board acts otherwise, the director of finance will serve as the treasurer.

4. The Board may select such other officers as it deems necessary through a majority vote.

5. The City Manager or his designee, or alternatively, those other members the City Manager designates in writing (not to exceed three members) to approve applications, shall have authority to approve pension, retirement, and disability payments until the next regular meeting of the Board.

E. Legal assistance. The city attorney or other attorney appointed by the governing authority shall furnish legal advice to the Board on any issue before it upon which legal advice is sought.

F. Meetings. The Board shall meet at least quarterly. Five members of the board (including the chairman) shall constitute a quorum.

G. Rules of procedure. The Board shall have the authority to promulgate rules and regulations for its internal operation, as well as the approval of payments within its jurisdiction.

H. Education. As mandated by Georgia law, each Council-appointed Board member (including ex officio), or officer or staff member as designated by the Board shall complete appropriate education applicable to his or her fiduciary duties and obligations under the plan.

1. Applicable education shall include education and training in the following areas:

a. Laws applicable to public retirement systems, which may include federal and state laws applicable to specific public retirement systems, laws applicable to public retirement system trustees, the applicable common law duties of trustees listed in Title 53 of the Georgia Code, and laws related to open meetings and open records;

b. Roles, duties, and responsibilities of public retirement system trustees;

c. Ethics and conflicts of interest;

d.. Governance, administration, and funding of public retirement systems;

e. Investments; investment management, portfolios, and strategies; and measurements of performance; and

f. Audit and actuarial principles and methods related to public retirement systems.

2. Applicable education may include:

a. Seminars, conferences, or schools sponsored by educational institutions or professional organizations;

b. Online continuing education coursework;

c. Continuing education received at any public retirement system meeting; or

d. Any other continuing education approved by the Board.

3. The secretary shall maintain a record of each member's applicable trustee education and provide a report to the Board and Council on an annual basis. Each member or designated officer or staff member first appointed or elected on or after July 1, 2019, shall complete a minimum of eight hours of education designed to orient new public retirement system trustees in the areas described in this Section within one year of becoming a new trustee. If a member from Posts 1 through 9 or one of the chiefs of public safety or their respective designees fails to complete such requirement within 14 months, such member shall be deemed removed from his or her position as

trustee by operation of State law (currently O.C.G.A. 47-1-17 and as later amended) and shall be removed without any further action, and the Council shall appoint a new member in accordance with this Section. Each appointed member or designated officer or staff member who was appointed or elected prior to July 1, 2019, or who has served one or more years as a public retirement system trustee shall complete a minimum of 12 hours of continuing education every two years in the areas described in this Section. If a member from Posts 1 through 9 or one of the chiefs of public safety or their respective designees fails to complete such requirement within 26 months, such member shall be deemed removed from his or her position as trustee by operation of State law (currently O.C.G.A. 47-1-17 and as later amended) and shall be removed without any further action, and the Council shall appoint a new member in accordance with this Section.

Section 3: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 4: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 5: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: April 13, 2022

APPROVED: R. Steve Tumlin, Jr.
R. Steve Tumlin, Jr., Mayor

ATTEST: Stephanie Guy
Stephanie Guy, City Clerk

Approved as to Form: Douglas R. Haynie
Douglas R. Haynie, City Attorney